

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRANDON LESTER	§	
	§	
vs.	§	CIVIL ACTION NO.
	§	7:15-CV-665
SMC TRANSPORT, LLC AND ISRAEL	§	
MARTINEZ, JR. AND SALINAS	§	
EXPRESS, LLC	§	
	§	

ORAL AND VIDEOTAPED DEPOSITION
ROY SALINAS
April 19, 2016

ORAL AND VIDEOTAPED DEPOSITION OF ROY
SALINAS, produced as a witness at the instance of the
Plaintiff and duly sworn, was taken in the above-styled
and numbered cause on April 19, 2016, from 9:23 a.m. to
11:48 a.m., before Annette E. Escobar, Certified Shorthand
Reporter in and for the State of Texas, reported by
computerized stenotype machine at the offices of La Posada
Hotel, La Posada Hotel, 1000 Zaragoza Street Laredo, The
Blue Bonnet Conference Room, Texas, pursuant to the
Federal Rules of Civil Procedure and the provisions stated
on the record or attached hereto.



P-R-O-C-E-E-D-I-N-G-S

Whereupon,

9:23 a.m.

MR. FRANKL: Based on an agreement of all the parties for all the depositions that are being taken in this matter, there's an agreement between counsel that all objections, except for the form of the question are reserved.

Is everyone in agreement with that?

MS. WHITE: Yes.

MR. HEARN: Yes.

MR. DUNN: Off the record for a second.

(Discussion off the record had.)

MR. DUNN: Yes, I agree.

THE VIDEOGRAPHER: We're on the record.

Today's date is April the 19th of the year 2016. The time is approximately 9:23 in the morning, and you may proceed with the deposition, please.

ROY SALINAS,

having been first duly sworn, testified as follows:

EXAMINATION

BY MS. WHITE:

Q Good morning, Mr. Salinas. My name is Johneal White and I represent a young man, Brandon Lester, in a lawsuit brought against Israel Martinez, SMC Transport,

1 and Salinas Express. Can you just state your full name
2 for the record.

3 A Roy Salinas.

4 Q And what's your current address?

5 A [Redacted]

6 Q How do you spell that?

7 A [Redacted]

8 Q Is that in Zapata?

9 A Zapata.

10 Q Who lives there with you?

11 A Who live there with me?

12 Q Yeah.

13 A My wife and three kids.

14 Q What's your wife's name?

15 A Cynthia Salinas.

16 Q How old are your children?

17 A Twenty, 18 and 14.

18 Q How long have you been married?

19 A I've been married with her three years.

20 Q Are you currently employed?

21 A Yes, ma'am.

22 Q Where do you work?

23 A Salinas Express.

24 Q How long have you worked there?

25 A Two years.

1 Q Do you know the date you started working there?

2 A I'm not sure, ma'am.

3 Q Would it have been in 2014?

4 A I'm not sure, ma'am. I'm not sure.

5 Q But you've been working there approximately two
6 years from today's date, which is April 2016?

7 A Approximately, yes, ma'am.

8 Q What do you do there?

9 A Truck driver.

10 MS. WHITE: Is that really going to
11 interfere with the audio?

12 THE VIDEOGRAPHER: I can hear it but,
13 faint.

14 Q (By Ms. White) How long have you been a truck
15 driver?

16 A Since 1990.

17 Q Do you have a commercial driver's license?

18 A Yes, ma'am.

19 Q Issued from the State of Texas?

20 A Yes, ma'am.

21 Q Tell me who owns Salinas Express?

22 A Rudy Salinas and Sylvia Salinas.

23 Q And Roy is your brother?

24 A Rudy is my brother.

25 Q And --

1 A Yes, ma'am.

2 Q Do you know when he stopped working for Salinas
3 Express?

4 A I'm not sure.

5 Q Do you know why?

6 A Not sure.

7 Q We're here about an incident that happened at a
8 rest stop in Virginia on October 26th, 2015. Do you
9 remember that incident?

10 A Yes, ma'am.

11 Q Where had you been -- my understanding is that
12 your Salinas Express truck had broken down and was stopped
13 at that rest area?

14 A That's correct.

15 Q And had you delivered a load prior to that,
16 prior to your truck breaking down?

17 A Like, what do you mean?

18 Q Well, you were on your way back to Texas?

19 A Yes, ma'am.

20 Q And where had you been prior? Had you made a
21 delivery somewhere?

22 A I think in Maryland.

23 Q In Chester Town?

24 A Yes, ma'am, Chester Town.

25 Q Do you know what you delivered?

1 A Not sure, ma'am.

2 Q The unit you drive, is that Number 110?

3 A Yes, ma'am.

4 (Exhibit marked for identification as
5 Deposition Exhibit Number 9.)

6 Q (By Ms. White) If you can take a look at it,
7 what's been marked for identification as Exhibit Number 9.

8 Is this a copy of the load that you had
9 delivered to Chester Town, Maryland?

10 A Yes, ma'am.

11 Q And so had you delivered the load to Creafill
12 Fibers Corp? Is that what you delivered?

13 A No, ma'am, I loaded there, ma'am.

14 Q Oh, that's what you loaded?

15 A I loaded there to Laredo.

16 Q So had you -- had you dropped something off in
17 Chester Town or you just went to --

18 A No, ma'am. I'm not sure, ma'am. I know I
19 loaded here in Chester Town going to Laredo.

20 Q Okay. So Chester Town was the place where you
21 had been most recently before the accident?

22 A Yes, ma'am.

23 Q And it looks like you picked that up on
24 October 20th, 2015?

25 A Yes, ma'am.

1 Q And did you leave Chester Town on that same day,
2 October 20th, 2015?

3 A Yes, ma'am.

4 Q Do you know what time you left Chester Town?

5 A Not sure.

6 Q And so then you would have gotten around D.C.
7 and then started heading south on Interstate 81?

8 A Yes, ma'am.

9 Q And then at some point did you run into Eddie
10 Lozano?

11 A Yes, ma'am.

12 Q Do you know where?

13 A I'm not sure, ma'am.

14 Q If Eddie said it was somewhere around Raphine,
15 does that sound familiar?

16 A I'm not sure.

17 MS. WHITE: Mark this as Exhibit 10.

18 (Exhibit marked for identification as
19 Deposition Exhibit Number 10.)

20 Q (By Ms. White) And can you take a look at what's
21 been marked as Exhibit 10 to the deposition?

22 A You can't see nothing. You can't tell what it
23 says.

24 Q Yeah, it is kind of hard. I don't know if my
25 copy is a little better.

1 Is this copy a little better? Can you see
2 that copy? It might be more -- yeah, this copy is a
3 little bit darker. Maybe we'll switch these. Is that one
4 a little better?

5 A A little better.

6 Q Is this a copy of your driver's log starting on
7 October 18th, 2015 and continuing until the October 31st,
8 2015?

9 A Yes, ma'am.

10 Q And so according to your driver's log, it says
11 you were off duty on October 18th, 2015, correct?

12 A Yes, ma'am.

13 Q And then on the 19th, can you -- do you know
14 where you were on the 19th?

15 A No, I can't really tell.

16 Q And on the 20th it shows you in Chester Town?

17 A I was in Maryland on the 19th.

18 Q You were in Maryland on the 19th?

19 A Monrovia is what this says.

20 Q What is that?

21 A This says Monrovia, MD, on the 19th, from what I
22 can tell from this.

23 Q So you were in Monrovia, Maryland and then
24 you're in Chester Town?

25 A I think that's right and then from there Chester

1 Town.

2 Q Does it show anywhere on here where and when you
3 broke down?

4 A No, ma'am.

5 Q I see on the 21st there's a marking for Raphine,
6 Virginia and then Fincastle, Virginia?

7 A Yes, ma'am, I see that one.

8 Q Is that where and when you broke down?

9 A Yes, ma'am.

10 Q How did you come across Eddie Lozano when you
11 were on your way back to Texas?

12 A I met him at a truck stop.

13 Q Do you know which one?

14 A Not sure, ma'am.

15 Q Had you guys agreed to meet up or you just
16 pulled in and said, there's Eddie?

17 A No, ma'am, I talked to him.

18 Q On a CB or?

19 A On the phone.

20 Q On the phone.

21 Do you know -- so did you call him?

22 A I don't remember. He called me or I called him.
23 I'm not sure.

24 Q And is that when you reported to him that you
25 were having trouble with your truck?

1 A Yes, ma'am.

2 Q And what kind of trouble were you having with
3 it?

4 A My differentials were making a noise.

5 Q And had you guys agreed to meet up at that truck
6 stop?

7 A I was already parked at the truck stop and he
8 pulled up there with me.

9 Q And so you had called him to let him know where
10 you were?

11 A I'm not sure, ma'am.

12 Q And so you meet up at the truck stop and then
13 what's your plan from there?

14 A We just left -- follow me going up -- coming
15 down.

16 Q So his plan -- your plan was for him to follow
17 you back to Texas?

18 A Uh-huh.

19 Q Yes?

20 A Yes, ma'am.

21 Q To make sure everything went okay?

22 A Yes, ma'am.

23 Q But at some point did your truck become
24 undriveable?

25 A Yes, ma'am. Like, probably like an hour coming

1 A Yes, ma'am.

2 Q Did you -- were you successful in doing that?

3 A No, ma'am.

4 Q What did you do then?

5 A I called Sergio to go help us out.

6 MR. DUNN: I'm sorry?

7 A I called Sergio to go help us out to go hook up
8 the truck.

9 Q And did he come to the truck stop?

10 A Yes, ma'am.

11 Q And did he show you all how to hook them up?

12 A Yes, ma'am.

13 Q Did he physically operate the wench?

14 A Yes, ma'am.

15 Q So when you left the truck stop, the Salinas
16 Express tractor was hooked up to the SMC tractor?

17 A Yes, ma'am.

18 Q And it was being towed by it?

19 A Yes, ma'am.

20 Q And where did you guys go then?

21 A To Virginia.

22 Q Did you make another stop?

23 A In Houston.

24 Q And why did you guys go to Houston?

25 A Picked up my cousin there.

1 Q Is that Art Gutierrez?

2 A Yes, ma'am.

3 Q Is he Sr. or Jr.?

4 A Sr.

5 Q And his full name is Arturo --

6 A Arturo.

7 Q -- Gutierrez.

8 Do you know where he lives in Houston?

9 A I'm not sure, ma'am.

10 Q Had you called him to let him know you were
11 going to come pick him up?

12 A Yes, ma'am.

13 Q And Art's a mechanic?

14 A A mechanic.

15 Q Does he have his own business?

16 A No, ma'am.

17 Q He just works for himself?

18 A For himself, yes. Well, for different
19 companies, I guess, whoever calls him.

20 Q And does he have his own shop?

21 A No, ma'am.

22 Q When did you call Art, when you were already on
23 the way to Houston or before you went to left?

24 A I'm not sure, ma'am.

25 Q And what was the conversation that you had when

1 you called Art?

2 A Just told him I was broke down and I needed
3 help, like, if he would help me hook up my truck over
4 there in case I needed something else, and he agreed to
5 go.

6 Q So you picked up Art in Houston and headed to
7 Virginia?

8 A Yes, ma'am.

9 Q Do you know what time it was when you left to
10 Houston?

11 A I'm not sure.

12 Q Do you know what day it was?

13 A I'm not sure.

14 Q How long did it take you to get from Houston to
15 Virginia?

16 A I'm not sure, ma'am.

17 Q How long does it usually take to get from
18 Houston to Virginia?

19 A It depends.

20 Q What does it depend on?

21 A If you're in a hurry or not.

22 Q Were you guys in a hurry?

23 A Not really.

24 Q Did it take more than one day?

25 A I'm sure.

1 Q Who drove?

2 A Israel Martinez and myself.

3 Q And you were driving the SMC tractor?

4 A Yes, ma'am.

5 Q As you're on your way to Virginia, did you have
6 anymore conversation with Rudy?

7 A Not sure, ma'am.

8 Q Did you ever let Rudy know what your plan was?

9 A No.

10 Q Was he not concerned with how to make the
11 delivery?

12 A I'm not sure, ma'am.

13 Q Well, it's his company?

14 A (Nods head.)

15 Q Does Rudy ever check in with you guys when you
16 are on the road?

17 A No, we check in with him.

18 Q Okay. And did you check in with him at all as
19 you're driving to Virginia?

20 A No, ma'am.

21 Q Do you generally check in with Rudy everyday
22 when you're on the road?

23 A When I'm pulling his loads, yes. I wasn't
24 working for him, so I don't have to call him.

25 Q Well, you were towing his tractor?

1 A Yeah, but you're not pulling his load.

2 Q Well, you were going to get his load to deliver
3 it to Texas; is that not true?

4 A Yeah, that's correct.

5 Q Okay. Ultimately, that was the point of the
6 trip was to be able to go get the load and bring it to
7 Texas?

8 A And bring my truck home.

9 Q Both. And the load was ultimately delivered to
10 Texas --

11 A That's correct.

12 Q -- as a result of all this?

13 A (Nods head.)

14 Q Yes?

15 A Yes.

16 Q So at some point you all arrive at the rest area
17 in Virginia?

18 A That's correct.

19 Q Who was driving when you arrived?

20 A I'm not sure.

21 Q Before this accident happened had you ever asked
22 Israel Martinez to help you out on a job?

23 A No, ma'am.

24 Q So when you arrived you would have been headed
25 north on Interstate 81 and would have had to get off at an

1 exit and turn back south?

2 A Yes, ma'am.

3 Q And you entered the rest area, correct?

4 A That's correct.

5 Q And your truck, the Salinas Express truck was
6 still there?

7 A Yes, ma'am.

8 Q Where you left it?

9 A Yes, ma'am.

10 Q And did you park the SMC tractor somewhere?

11 A Yes, ma'am.

12 Q And were you the one who parked it?

13 A I'm not sure, ma'am.

14 Q Do you know where it was parked?

15 A I don't remember.

16 Q Was it -- do you know if it was parked in front
17 of the Salinas Express tractor or beside it?

18 A I don't remember. It was more to the front, but
19 I don't remember where exact.

20 Q What's that?

21 A It was past the rest area, like, more to the
22 front. I just don't remember exactly where.

23 Q Somewhere southbound?

24 A Yes, ma'am.

25 Q And then what did you guys proceed to do?

1 A I unhooked my truck.

2 Q The Salinas Express?

3 A Unhooked it and -- well, actually, we unhooked
4 Eddie's truck first. We unhooked that one and then we
5 were going to hook my truck and we pulled my truck out.

6 Q All right. So you unhooked Eddie's truck from
7 the SMC tractor?

8 A That's correct.

9 Q And then did Eddie park his truck?

10 A I'm not sure. I was unhooking mine. I'm not
11 sure where he parked.

12 Q So then you unhooked your Salinas Express
13 tractor from its load?

14 A Yes, ma'am.

15 Q And then were you able to move it out of the way
16 a little bit?

17 A No, the SMC truck pulled me out.

18 Q So you had Eddie pull --

19 A No, ma'am, Israel pulled me out.

20 Q Israel. And did you do that with the wench or
21 chains?

22 A With the chains.

23 Q And then so did you hook up Eddie's truck to
24 the, to the load?

25 A Yes, ma'am.

1 Q And then did you guys move that load at all or
2 was it stayed parked where it was?

3 A I think Eddie moved, like, more to the front.

4 Q More southbound?

5 A More southbound.

6 Q And do you know did you move it to the left or
7 right side?

8 A Not sure. I think it was the left.

9 Q And for point of reference, when I say left or
10 right side, that would be looking southbound?

11 A Yes, ma'am.

12 Q And then did you attempt to hook up the SMC
13 tractor to your broken down tractor?

14 A Yes, ma'am.

15 Q And how did you -- did that, was that eventually
16 accomplished?

17 A Yes, ma'am.

18 Q How did you guys accomplish that?

19 A We hooked it up, got it hooked up again and
20 Israel parked it where my broken down truck was parked in
21 the beginning; he parked back in that area.

22 Q So when they were hooked up eventually they were
23 back to back?

24 A Yes, ma'am.

25 Q So at some point the SMC tractor had to be

1 turned around to face north?

2 A It was facing north.

3 Q Yeah. But at some point it had to be turned
4 around to do that within the rest area?

5 A Well, yes, ma'am.

6 Q Who did that?

7 A Israel.

8 Q And how did he do that?

9 A I'm not sure, ma'am.

10 Q Did you watch him do that?

11 A No, ma'am.

12 Q Were you watching out for him make sure he
13 didn't hit anything else?

14 A No, ma'am.

15 Q Did Art check out your truck at all before you
16 guys attempted this hooking the two tractors up?

17 A No, ma'am.

18 Q Did he ever look at your truck while in the rest
19 area?

20 A Just hooked it up there, that's all he did.

21 Q So was it ever your intention to see if he could
22 fix the truck before towing it back?

23 A It wasn't fixable.

24 Q So what was the point of him coming along?

25 A To help me, like, he was a mechanic, in case

1 something was locked on it or something, I don't know,
2 like, just to help. But truck wasn't going to get fixed
3 there.

4 Q Who helped in attaching the SMC tractor to your
5 broken down Salinas tractor?

6 A We all hooked it up.

7 Q And when you say we all, would that be Eddie,
8 you, Israel?

9 A Israel and Art, the four of us.

10 Q And so at some point when you're all done, it
11 was parked where your broken down tractor had been?

12 A Yes, ma'am.

13 Q And where you have it marked on the map?

14 A Yes, ma'am.

15 Q And then after that's done, did you guys have
16 any conversation about what to do next?

17 A No, ma'am. I just told Israel that we had to
18 turn the truck around, and we went inside to wash up in
19 the rest room. I think it was me and Art that went inside
20 and as we were coming out, Israel was already like trying
21 to turn the truck around.

22 Q Where was Eddie at?

23 A I'm not sure, ma'am.

24 Q When you told Israel that you had to turn the
25 truck around, did you have any ideas and was there any

1 discussion about how to do that?

2 A No, ma'am.

3 Q How did you think that it was going to be turned
4 around?

5 A Well, I thought I was going to back up in the
6 car area, like, pull up and back the truck back up and
7 then turn around inside the rest area.

8 Q So your idea what you thought would happen was
9 to pull up and then --

10 A Back up until --

11 Q -- sort of where the arrow is leading to the car
12 area?

13 A Yes, ma'am.

14 Q Were there any, as you're going in the entrance
15 ramp, there's a shoulder on the right-hand side, correct?

16 A That's correct.

17 Q Were there trucks parked along there?

18 A Yes, ma'am.

19 Q Do you know how many?

20 A Not sure, five or six.

21 Q So was it very, very full on that?

22 A It was very full.

23 Q Were there any parked on the right hand sort of
24 shoulder?

25 A Left hand.

1 Q On the left-hand side?

2 A Yes, ma'am.

3 Q There were?

4 A Yes, ma'am.

5 Q Do you know how many?

6 A Not sure, one or two.

7 Q Do you know how far they extended into the

8 entrance?

9 A Not sure.

10 Q So you and Art went in to wash up?

11 A Yes, ma'am.

12 Q After you -- and when you left Israel, was the

13 vehicle still parked in the same space?

14 A When I left, yes, ma'am.

15 Q And did you have any conversation when you left,

16 like, I'll be right back or whatever?

17 A I just told them I'm going to wash up, come out,

18 and try to turn the truck around.

19 Q And how long were you in the rest room?

20 A I'm not sure, ma'am.

21 Q So what was Israel doing when you came out?

22 A He was already pulling up the ramp.

23 Q Already pulling up the entrance ramp?

24 A Entrance ramp.

25 Q How far had he gotten?

1 A I'm not sure.

2 Q Do you know, was he given any warnings?

3 A I don't know, ma'am.

4 Q When you arrived at the rest area was Israel
5 awake or asleep at the time?

6 A I'm not sure, ma'am.

7 Q Other than stops for fuel, did you guys make any
8 stops on the way from Houston to Virginia?

9 A No.

10 MS. WHITE: We'll take a break.

11 THE VIDEOGRAPHER: The time is 11:17 in the
12 morning and we are off the record.

13 THE VIDEOGRAPHER: We are back on the
14 record. The time is 11:26 in the morning, and you may
15 continue with the deposition, please.

16 Q (By Ms. White) I just wanted to clarify,
17 Mr. Salinas, did you actually see the young man from the
18 pickup truck go towards the median?

19 A Yes, ma'am.

20 Q You did?

21 A Yes.

22 Q Okay.

23 A He ran, like, the opposite side, like to the
24 median.

25 MS. WHITE: All right. Those are all the

1 questions I have.

2 MR. HEARN: Go ahead.

3 EXAMINATION

4 BY MR. DUNN:

5 Q Mr. Salinas, since you started working for
6 Salinas Express you haven't worked for any other
7 businesses, have you?

8 A No, sir.

9 Q So you agree with me on that?

10 A Yes, sir.

11 Q And when did you start working for Salinas
12 Express?

13 A On -- it was September 9th, '15.

14 Q September 9th, 2015?

15 A Yes, sir.

16 Q And before that you worked for SMC Transport?

17 A That's correct, sir.

18 Q How long did -- when did you start working for
19 SMC Transport?

20 A I'm not sure. I know I was working for a whole
21 year with them.

22 Q And why did you switch over from SMC Transport
23 to working for Salinas Express?

24 A It's -- I was trying -- well, at the beginning I
25 was trying to get in with Salinas Express but the

1 insurance only allows five trucks the first year. So my
2 cousin Sergio gave me a chance to start with him that year
3 and once the year was up I could go with our company.

4 Q That's Salinas Express?

5 A Yes, sir, that's correct.

6 Q All right. And you said earlier that you drove
7 that SMC Transport truck that you had driven up to
8 Virginia to pick up your disabled Salinas Express truck,
9 you had driven it before?

10 A Yes, sir, that's correct.

11 Q Okay. Do you know how many other times you've
12 driven it?

13 A I'm not sure, like twice.

14 Q Okay. Was that long haul, short, local trips or
15 what?

16 A Local, local haul.

17 Q And that's when you were working for SMC
18 Transport?

19 A That's correct, sir.

20 Q After you started working for Salinas Express,
21 did you ever use a SMC vehicle other than this trip up to
22 Virginia?

23 A No, sir.

24 Q Now, that trip up to Virginia around October 26,
25 2015 that was not for SMC Transport, was it?

1 A No, sir.

2 Q That was for?

3 A My personal self, yes, sir.

4 Q Personal, to get your disabled vehicle up there
5 at the rest stop?

6 A That's correct, sir.

7 Q No one from SMC Transport was on that trip with
8 you when you went up there October 26th, 2015?

9 A No, sir.

10 Q No, you agree with me?

11 A I agree; yes, sir.

12 Q No one from SMC Transport was telling you what
13 to do on that trip up to Virginia to pick up your truck,
14 correct?

15 A No, sir; that's correct.

16 Q In fact, the only connection you had with SMC
17 Transport is that you were driving an SMC Transport
18 tractor up to Virginia, correct?

19 A That's correct, sir.

20 Q SMC Transport didn't receive any type of benefit
21 for your using that truck to go up to Virginia, correct?

22 A Yes, sir; that's correct.

23 Q Now, before you went up on that trip up to
24 Virginia you talked to Sergio Cuellar about using the SMC
25 Transport vehicle; is that right?

1 A That's correct, sir.

2 Q Did you call him on the phone or did you talk to
3 him in person or how did that --

4 A Called him on the phone.

5 Q And what did he tell you?

6 A Well, he asked me -- I told him I was broke down
7 and he asked me if we had any trucks available to go pick
8 up mine. I told him no. He said he had the black truck
9 available. He could lend it to me.

10 Q All right. And did he tell you anything else as
11 far as who was to drive it or what you were supposed to do
12 with that?

13 A No, sir.

14 Q But he did tell you that you could drive it,
15 correct?

16 A That's correct, sir.

17 Q Did he tell you that somebody else could drive
18 it as well?

19 A No, sir.

20 Q And he was loaning that SMC Transport vehicle to
21 you as a favor?

22 A That's correct, sir.

23 Q All right.

24 MR. DUNN: Thank you.

25 THE WITNESS: Thank you, sir.